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| APPLICATION NO. | FILING DATE | FIRST NAMED INVENTOR   | ATTORNEY DOCKET NO. | CONFIRMATION NO. |
|-----------------|-------------|------------------------|---------------------|------------------|
| 10/681,720      | 10/07/2003  | Ricard Espinoza-Ibarra | 200208694-1         | 6680             |

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HEWLETT PACKARD COMPANY  
P O BOX 272400, 3404 E. HARMONY ROAD  
INTELLECTUAL PROPERTY ADMINISTRATION  
FORT COLLINS, CO 80527-2400

EXAMINER

BUI, BRYAN

ART UNIT PAPER NUMBER

2863

DATE MAILED: 07/25/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

5m

|                              |                                      |                                               |  |
|------------------------------|--------------------------------------|-----------------------------------------------|--|
| <b>Office Action Summary</b> | <b>Application No.</b><br>10/681,720 | <b>Applicant(s)</b><br>ESPINOZA-IBARRA ET AL. |  |
|                              | <b>Examiner</b><br>Bryan Bui         | <b>Art Unit</b><br>2863                       |  |

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☐ Responsive to communication(s) filed on \_\_\_\_.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-20 is/are pending in the application.  
     4a) Of the above claim(s) \_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) 14-20 is/are allowed.
- 6) ☒ Claim(s) 1-13 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
     Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
     Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
     a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- \* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |                                                                                                                       |                                                                                        |
|-----------------------------------------------------------------------------------------------------------------------|----------------------------------------------------------------------------------------|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)                                           | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. ____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)            |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date ____ | 6) <input type="checkbox"/> Other: ____                                                |

## DETAILED ACTION

### ***Claim Rejections - 35 USC § 112***

1. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

2. Claims 1- 7 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

Claim 1 recites the limitation "said environmental adjustment component" in line

7. There is insufficient antecedent basis for this limitation in the claim.

Claim 3 recites the limitation "said management component" in line 2. There is insufficient antecedent basis for this limitation in the claim.

Claims 8-13 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite in that it fails to point out what is included or excluded by the claim language. What's happen to the singular term " equipment" in line 6 of claim 8 refer to the singular term "equipment" that include plural equipments (rack equipment and environmental support equipment) in claim 9?. The term "equipment" in claim 8 is undefined. Further the term "equipment" in claims 10, 11 is a relative term which renders the claim indefinite. The term "equipment" is not defined by the claim, the specification does not provide a standard for ascertaining the requisite degree, and one of ordinary skill in the art would not be reasonably apprised of the scope of the invention. How to perform the operation when turning off said equipment? Forwarding performance to and investigating response of "what equipment"?

***Claim Rejections - 35 USC § 102***

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-2, 4-6, 9, 10, 12, 13 are rejected under 35 U.S.C. 102(e) as being anticipated by Smith et al (US6785592).

With respect to claims 1 and 8, Smith et al teaches a rack equipment for processing information (figure 3, item 334); an environmental condition adjustment component (figure 3, EMS: energy management system for adjusting the rack equipment based upon environmental conditions (measurement energy from meter 314A and acquisition by data acquisition metering 320); a communication bus for communicatively coupling the rack equipment and the environment condition adjustment component, wherein the communication bus communicates information between the environmental adjustment component and the rack equipment (figure 3, items 308, 310, 312, or communication portal 306). It is noted that during patent examination, the pending claims must be given the broadest reasonable interpretation. "Applicant always has the opportunity to amend the claims during prosecution, and broad interpretation by the examiner reduces the possibility that the claims, once issued

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will be interpreted more broadly than is justified. In re prater, 415 F.2d1393, 1404-05, 162USPQ541, 550-51 (CCPA 1969).

With respect to claim 2, wherein the performance of the rack equipment is adjusted (column 7, lines 48+, figure 3).

With respect to claims 4-6, 9, 10,12, 13, Smith et al teaches rack equipment and environment support equipment (figure 3, item 334, and measurement energy from meter 314A and acquisition by data acquisition metering 320), wherein an environmental policy plan (management maintenance operations at central location) is dynamically adjustable, maintains environmental conditions within safety constraints, and automatically adjusting the environment plan interactively (column 23, lines 29-41 and column 25, lines 28-36). It is noted that dynamically adjustable means for any adjusting/ changing in physical force or energy (further see dictionary) altering a rack equipment or environmental support equipment (figure 1, items 334, 337A, 337B, 337C).

***Allowable Subject Matter***

3. Claims 3, 7, 11 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims and overcome the 112 rejection.

4. The following is a statement of reasons for the indication of allowable subject matter: Claims 14-20 are indicating allowable over the prior art of record because none of the prior art whether taken singularly or in combination to teach the claimed

4. combination as recited in the claims, particularly require in combination through the performance of instructions steps to implement environmental system.

**Conclusion**

5. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Bryan Bui whose telephone number is 571-272-2271. The examiner can normally be reached on M-Th from 7am-4pm, and Alternate Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John E. Barlow can be reached on 571-272-2269. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

BB

7/21/2005

BRYAN BUI  
PRIMARY EXAMINER

